

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

AMADO GUTIERREZ-MATA,
Plaintiff

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§
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v.
QUALITY CARRIERS, INC. and
DAVID A. GOMM
Defendants

§ CIVIL ACTION NO. _____
§ JURY REQUESTED

DEFENDANTS' NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1332, Defendants QUALITY CARRIERS, INC. AND DAVID A GOMM, hereby give notice of the removal of this cause of action to the United States District Court for the Southern District of Texas (Houston Division). Quality Carriers, Inc. and David Gomm state as grounds for removal that:

PROCEDURAL STATUS OF THE CASE

1. Plaintiff, Deionne Amado Gutierrez-Mata filed this action in the 55th Judicial District Court of Harris County, Texas on August 12, 2015. It carries the case style of *Amado Gutierrez-Mata v. Qulaity Carriers, Inc. and David A. Gomm*, Cause No. 2015-3846847169 in the 55th Judicial District Court of Harris County, Texas.

2. Defendant Quality Carriers was served with process on August 26, 2015 when its agent for service of process accepted service on their behalf.

3. On information and belief, David Gomm has not yet been served in this suit.

4. All pleadings, process, orders, and other filings in the state court action accompany this notice. See U.S.C. § 1446(a); S.D. Tex. Loc. R. 81.

5. This Notice of Removal is being filed in the record office of the Clerk of the United States District Court for the Southern District of Texas (Houston Division).

7. Defendants will promptly file a copy of this Notice of Removal with the Harris County, Texas, District Clerk.

BACKGROUND

8. This case arises out of a motor vehicle accident that occurred on June 6, 2015 in Harris County, Texas. The accident involved Plaintiff's vehicle and a vehicle being driven by David Gomm. Plaintiffs allege that Mr. Gomm was in the course and scope of his employment with Quality Carriers, Inc. at the time of the accident.

9. Plaintiff's Original Petition seeks monetary relief "over \$200,000 but less than \$1,000,000.00." (Orig. Pet., ¶ 3.03).

10. Plaintiff has sued Defendants alleging various theories of negligence, (Orig. Pet., §§4-6).

BASIS FOR FEDERAL COURT ORIGINAL JURISDICTION

11. Complete diversity exists between Plaintiff and Defendants. Plaintiff's petition admits that Plaintiff is a resident of Harris County, Texas. Orig. Pet. ¶ 2.0. Plaintiff's petition also correctly states that Defendant Quality Carriers is a resident of Florida whose principal place of business is in Florida and that Defendant Gomm is a resident of Utah. Orig. Pet. ¶¶2.02-2.03.

12. Plaintiff has pled for an amount ranging from \$200,000 to \$1,000,000. *Id.* at ¶3.03. Hence, the amount in controversy exceeds \$75,000, exclusive of interest and costs. 28 U.S.C. §1441(b)(2); 28 U.S.C. § 1332.

PROPRIETY OF REMOVAL

13. This Notice of Removal is timely because it is filed within thirty (30) days of Defendants' receipt of the Original Petition, in accordance with 28 U.S.C. § 1446(b).

14. Both Defendants have consented to removal.

15. Removal is not barred by 28 U.S.C. § 1445.

16. Pursuant to 28 U.S.C. § 1446(a) and local Rule 81, Defendants, Quality Carriers, Inc. and David Gomm have attached hereto: a copy of the Civil Case Information Sheet as **Exhibit A**; a copy of the Civil Process Pick-Up Form as **Exhibit B**; a copy of Plaintiff's Original Petition & Request for Disclosures as **Exhibit C**; a copy of Interrogatories to Defendant David A. Gomm as **Exhibit D**; a copy of Interrogatories to Defendant Quality Carriers, Inc. as **Exhibit E**; a copy of the Request for Production to Defendant David A. Gomm as **Exhibit F**; a copy of the Request for Production to Defendant Quality Carriers, Inc. as **Exhibit G**; a copy of the citation for David A. Gomm as **Exhibit H**; a copy of the Certified Mail Receipt for David A. Gomm as **Exhibit I**; a copy of the Citation by Certified & First Class Mail as **Exhibit J**; a copy of the Docket Sheet as **Exhibit K**; an Index of Documents being filed as **Exhibit L**; and a list of all Parties as **Exhibit M**. At the time of filing, there were no orders signed by the state judge.

REQUEST FOR HEARING AND JURISDICTIONAL DISCOVERY

17. If Plaintiff contests this removal, Defendants request:

- (a) a hearing regarding this Court's jurisdiction over, and the propriety of removal of this matter; and
- (b) leave to conduct limited discovery related to issues surrounding the existence of diversity jurisdiction.

JURY DEMAND

18. Defendants demand a jury trial.

WHEREFORE, Quality Carriers, Inc. and David Gomm remove the above captioned action from the 55th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, (Houston Division).

Respectfully submitted,

BAIRHILTY, P.C.

/s/ Ronald L. Bair _____

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**ATTORNEYS FOR DEFENDANTS
QUALITY CARRIERS, INC. AND
DAVID GOMM**

CERTIFICATE OF SERVICE

I hereby certify that all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document via the Court's CM/ECF system per S. Dist. Tex. Loc. R. LR5.1 on the 23rd day of September, 2015. A true and correct copy of the foregoing Defendants Notice of Removal was served upon counsel of record in compliance with the Federal Rules of Civil Procedure by certified mail, return receipt requested, telephonic communications, hand delivery and/or U.S. Mail on this the 24th day of September, 2015.

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Houston, Texas 77018

Via facsimile: (713) 465-3658

/s/ Ronald L. Bair
RONALD L. BAIR